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**The LDC position on “PREFERENTIAL TREATMENT TO  
SERVICES AND SERVICE SUPPLIER OF  
LDCs(WT/L/847)”**

by

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD

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# The General Agreement on Trade in Services (GATS)

- GATS mandates progressive liberalization through successive rounds of negotiations. (Art XIX)
- Negotiations began in January 2000.
- In March 2001 the Guidelines and Procedures for the Negotiations on Trade in Services were adopted. (S/L/93)
- At the Doha Ministerial (p 15 of WT/MIN(01)/DEC/1) made the services negotiations part of the “single undertaking”.
- Modalities for the Special Treatment for LDC Members adopted (TN/S/13) in 2003.

# GATS Operational Logic

- GATS explicitly recognize government's right to regulate to meet the national policy objectives.
- Layered Regulatory System.
  - Schedule of Commitment;
  - Domestic Regulation;
  - Business practices; and
  - Mutual Recognition.

# GATS Operational Logic

- Access to market is conditional upon to the extent that no qualification/limitation have been scheduled.
- Schedule of Commitment has basically two series doors the Market Access and the National Treatment.

# GATS Operational Logic

- Market Access encompasses restrictions (Article XVI.2.a-f) in the form of limitations on:
  - a. number of service supplier;
  - b. value of services transactions;
  - c. total number of person employed;
  - d. total number of person employed;
  - e. specific type of legal entity; and
  - f. foreign equity.

# Legal standing of the Waiver

- It (WTO/L/847) explicitly provides legal scope to provide preference departing from the obligation under Article II (MFN) with respect to the application of the Market Access limitations scheduled (Article XVI);
- **But doesn't oblige to do so**
- However preferential treatment can be provided from “any other measures” ( p 1) subject to specific approval by CTS.

# Other serial and crosscutting regulatory measures

- National treatment (Art XVII)
  - Mutual recognition (Art VII),
  - Qualification requirements and procedures and Licensing Requirements and Procedures under Domestic Regulation (Art VI) .
  - And then to certain extent the business practices (Art IX).



# What We have to Do?

- Identify our sector specific services Trade interests;
- Identify the target market;
- Point out the BURDENSOME entrée barriers in respect of Market Access and “Any other measures”; and
- Engage with the members.

# Where are We standing

- We had a brainstorming session and working on the preparation of a group request.
- We proposed for operationalization of the waiver. The outcome is **JOB/TNC/25** which will be placed for the Ministerial decision.

# What is in the JOB/TNC/25?

- The CTS
  - to initiate a process aimed at promoting the expeditious and effective operationalization of the LDC services waiver.
  - shall periodically review the operationalization of the waiver.
  - shall convene a High-level meeting six months after the submission of an LDC collective request.

# What is in the JOB/TNC/25?

- At that meeting, developed and developing Members, in a position to do so, shall indicate sectors and modes of supply where they intend to provide preferential treatment to LDC services and service suppliers.
- Encouraged Members to extend preferences to LDCs' services and service suppliers, autonomously.
- Underlined the need for enhanced technical assistance and capacity building to help LDCs benefit from the operationalization of the waiver.

At the end of the day TRADE is the result of marry making between demand and supply.

**THANK YOU**